

EXHIBIT C

• AO 440 (Rev. 1993) Summons in a Civil Action

## United States District Court

Southern

District of

Indiana

Cook Group, Inc. and Cook  
Biotech Incorporated

SUMMONS IN A CIVIL CASE

v.

Purdue Research Foundation and  
Purdue University

CASE

IP 02-0406 C - B/S

TO: (Name and address of Defendant)

Purdue Research Foundation  
West Lafayette, Indiana 47901

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Spiro Bceveskos  
Holiday Banta  
Woodard, Emhardt, Naughton, Moriarty & McNett  
111 Monument Circle, Suite 3700  
Indianapolis, IN 46204

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court, 46 East Ohio Street, Room 105, Indianapolis, Indiana 46204, within a reasonable period of time after service.

  
CLERK

MAR 14 2002

CLERK

(P) DEPUTY CLERK

DATE



## CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM)

## I. (a) PLAINTIFFS

Cook Group, Inc. and Cook Biotech Inc. rporated

## DEFENDANTS

Purdue Research Foundation and Purdue University

## (b) County of Residence of First Listed

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED

## (c) Attorney's (Firm Name, Address, and Telephone Number)

Spiro Beresvick and Holiday Banta  
Woodard, Emhardt, Naughton, Moriarty & McNert  
111 Monument Circle, Suite 3700  
Indianapolis, IN 46204 317-634-3456

Attorneys (If Known)

P 02-0406 C - B/S

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State: ☐ 1 PTF ☐ 1 DEF Incorporated or Principal of Business in This State: ☒ 4 PTF ☒ 4 DEF
- Citizen of Another: ☐ 2 PTF ☐ 2 DEF Incorporated and Principal of Business in Another State: ☐ 5 PTF ☐ 5 DEF
- Citizen or Subject of a: ☐ 3 PTF ☐ 3 DEF Foreign nation: ☐ 6 PTF ☐ 6 DEF

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defined Student Loans (Bank, Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veterans' Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 170 Other Contract <input type="checkbox"/> 185 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Products Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employees' Liability <input type="checkbox"/> 340 Maritime <input type="checkbox"/> 345 Marine Products Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Scheme of Property 31 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 156 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 830 Copyright <input type="checkbox"/> 835 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 420 Banks and Banking <input type="checkbox"/> 430 Commerce/ICC Rate/Rate <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Masters Influenced and Coerced Organizations <input type="checkbox"/> 810 Scientific Services <input type="checkbox"/> 830 Securities/Commodities Exchange <input type="checkbox"/> 875 Consumer Challenge 15 USC 2610 <input type="checkbox"/> 881 Agricultural Act <input type="checkbox"/> 882 Economic Stabilization Act <input type="checkbox"/> 883 Environmental Matters <input type="checkbox"/> 884 Energy Allocation Act <input type="checkbox"/> 885 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fed. Denial/Revocation Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 990 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Eminent Domain <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Ten Pross Liability <input type="checkbox"/> 250 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 449 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 520 Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Conditions	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting and Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 750 Other Labor Legislation <input type="checkbox"/> 791 Emp. Ret. Inc. Security Act	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 BIA (1995d) <input type="checkbox"/> 862 Black Lung (933) <input type="checkbox"/> 863 DIWODIWW (405d) <input type="checkbox"/> 864 SSID Tich XVI <input type="checkbox"/> 865 RSI (405d) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

## V. ORIGIN

- ☒ 1 Original Proceeding ☐ 2 Removed From State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Rescinded ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate

## VI. CAUSE OF ACTION

(Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Patent infringement, correction of inventorship, breach of license agreement, Title 35 U.S.C. § 271

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

## DEMAND

CHECK YES only if demanded in complaint: JURY DEMAND: ☐ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See Instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

3/14/02

Spiro Beresvick

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING BY

JUDGE

MAG. JUDGE

COPY OF PA: S  
ORIGINALLY FILEDFILED  
U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANAIN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA 02 MAR 14 PM 4:39COOK GROUP, INC., and COOK BIOTECH  
INCORPORATED,

Plaintiffs

Case No.

v.

IP 02-0406 C - B/S

PURDUE RESEARCH FOUNDATION, and  
PURDUE UNIVERSITY,

Defendants.

**COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF**

For their Complaint against defendants Purdue Research Foundation ("PRF"), and  
Purdue University ("Purdue") plaintiffs Cook Group Inc. ("Cook Group") and Cook Biotech Inc.  
("Cook Biotech") hereby state as follows:

**INTRODUCTION**

1. This is a suit for declaratory and injunctive relief necessary to protect patent rights  
that were exclusively licensed by PRF to Cook Group and Cook Biotech in 1995 and that PRF  
now has purported to license to another.

**THE PARTIES AND JURISDICTION**

2. Plaintiff Cook Group is an Indiana Corporation with its principal place of  
business located in Bloomington, Indiana. Cook Group owns a number of medical device  
manufacturing and other companies primarily devoted to the advancement of diagnostic and  
therapeutic medical technologies in various medical specialty areas, e.g., cardiology, urology,  
and gastroenterology. Cook Group owns eighty percent (80%) of Cook Biotech.

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OFFICE OF PETITIONS

3. Plaintiff Cook Biotech was formed by Cook Group and defendant PRF in order to commercialize the technology at issue in this case, which will be described in more detail below, but which generally involves the use of submucosal tissue as a tool to heal and treat various medical conditions. Cook Biotech is a closely held Indiana corporation which is owned by Cook Group (80%), defendant PRF (10%) and Methodist Hospital of Indiana (located in Indianapolis) (10%). Cook Group and Cook Biotech are sometimes referred to collectively herein as "Cook."

4. Defendant PRF is a not-for-profit Indiana corporation having its principal place of business in West Lafayette, Indiana. PRF is engaged in the business of administering and commercializing various technologies for and on behalf of Purdue University.

5. Defendant Purdue University is a body corporate organization created and existing under Indiana law; has its principal place of business in West Lafayette, Indiana; and has several facilities located in the State of Indiana, including in Indianapolis, Indiana.

6. Jurisdiction in this case is proper pursuant to 28 U.S.C. §§ 1331 and 1338, as it involves the construction and application of various United States patent claims.

#### **THE NATURE OF THE DISPUTE**

7. Defendants Purdue and PRF licensed to Cook exclusive rights in a group of patents pertaining to the use of submucosal tissue taken from a vertebrate mammal (such as a pig) as a tool to repair or replace human tissue. The claims of various licensed patents describe and claim the use of "vertebrate submucosal tissue" or simply "submucosal tissue." Nonetheless, defendants now claim that the technology licensed to Cook is limited to submucosal tissue obtained from the small intestine, and does not cover tissue taken from any

other organ. Because various licensed patents include claims describing submucosal tissue generally, without limitation to any specific organ, Cook maintains that the patent rights exclusively licensed to it by defendants include vertebrate submucosal tissue, without regard to the organ from which the tissue was obtained.

8. The dispute has taken on some urgency, in light of defendants' announcement that they have licensed to CorMatrix Cardiovascular Inc. ("CorMatrix") the very technology that they previously and exclusively licensed to Cook.

#### SUBMUCOSAL TISSUE TECHNOLOGY

9. Because the submucosal tissue at issue in this case originally was extracted from the small intestines of pigs, this technology was initially referred to as small intestine submucosa (or "SIS") technology. But this material can be extracted, not only from pig intestines, but from other organs as well, such as the bladder, the stomach and the liver. Many of the licensed patent claims reflect the use in this technology of tissue obtained from organs other than the intestines, and many of those patent claims refer to "vertebrate submucosal tissue" and/or to "submucosal tissue" generally, and are not limited to submucosa derived from the small intestine.

#### THE FORMATION OF COOK BIOTECH

10. Defendants decided to utilize a separate "core company" to commercialize their patents relating to submucosal tissue. Defendants chose Cook Group as the commercial entity with whom to create the core company, and Cook Biotech was created to fulfill that core company function. PRF and Methodist Hospital ("Methodist") (where much of the pertinent

**COUNT III****INVENTORSHIP OF THE '931 PATENT**

38. Plaintiffs incorporate by reference paragraphs 1 through 22 hereof as if fully restated herein.

39. Cook Biotech is an assignee of U.S. Patent No. 6,206,931 (the "'931 Patent") which was duly and lawfully issued by the United States Patent and Trademark Office on March 27, 2001. A copy of the '931 patent is attached hereto as Exhibit D.

40. Defendants PRF and Purdue have asserted, in writing, that certain Purdue inventors were omitted from one or more Cook-owned patents. Moreover, Purdue has identified the list of inventors who it believes invented the invention disclosed in the '931 Patent, and that list is different from the list of inventors contained within the '931 Patent.

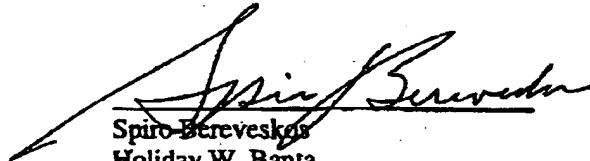
41. Cook denies and rejects defendants' contentions that the list of '931 Patent inventors is incorrect, the parties are at issue, and the dispute is ripe for resolution by this Court.

WHEREFORE, plaintiffs hereby pray for the following relief:

1. Temporary, preliminary and permanent injunctive relief, pursuant to the Court's general equitable powers as well as under 35 U.S.C. § 283, prohibiting defendants, and those in active concert and participation with them, from licensing, purporting to license, practicing, infringing, and/or assisting or contributing to the infringement of, any of the claims of any of the patents exclusively licensed to Cook under the License Agreement, including but not limited to the '347 and the '686 Patents;

2. A declaratory judgment pursuant to 28 U.S.C. § 2201 that:
  - a. PRP's license to CorMatrix violates the License Agreement between PRF and Cook;
  - b. the inventions purportedly licensed to CorMatrix, and being practiced by CorMatrix and defendants, infringe and read upon the claims of the patents licensed to Cook in the License Agreement;
  - c. that the persons alleged by defendants to have been omitted from the list of inventors of the '931 Patent are not, in fact, inventors of the inventions claimed in that patent.
3. All reasonable attorneys' fees and costs incurred by plaintiffs pursuant to 35 U.S.C. § 285; and
4. All other relief this Court deems just.

Dated: March 14, 2002



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